

<b>Application Number</b> 	Application/Control No. 09/934,827	Applicant(s)/Patent under Reexamination ANDO ET AL.

**Document Code - DISQ**

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<b>TERMINAL DISCLAIMER</b>	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
Date Filed : October 3, 2005	This patent is subject to a Terminal Disclaimer	

**Approved/Disapproved by:**

Henry D. Jefferson

**T.D. INFORMAL MEMO: DO NOT MAIL THIS MEMO TO APPLICANT**

DATE: 03-Oct-05

APPL. S.N.:

09/934,827

TO: EXAMINER **CHEVALIER, ROBERT**

ART UNIT:

2616

FROM: **Jefferson, Henry**

PARALEGAL SPECIALIST

Case Drop-Off Locatc

RETURN THIS MEMO TO:

**JEF-2D68**

SUBJECT: Decision on Terminal Disclaimer (T.D.) filed: 14-Sep-05

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next Office action to notify applicant of the T.D. If you disagree or have any questions, please see me or the Special Program Examiner. THIS IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE (1) MAILED TO APPLICANT OR (2) PLACED OF RECORD IN THE APPLICATION FILE. When your action is complete, please initial, date and return this memo to me. THANK YOU.

- The T.D. is PROPER and has been recorded (see §14.23).
- The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below (see § 14.24):
- The TD fee of   has not been submitted nor is there any authorization in the application file for the use of a deposit account (see § 14.26.07).
  - The T.D. does not satisfy Rule 321 in that the person who has signed the T.D. has not stated the extent of his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent (see §§ 14.26 & 14.26.01).
  - The T.D. lacks the enforceable only during common ownership clause – needed to overcome a non-statutory double patenting rejection, Rule 321(b) (see § 14.27.01).
  - The T.D. is directed to a particular claim(s), which is not acceptable since “the disclaimer must be for a terminal portion of the term of the entire patent to be granted” (MPEP 1490) (see §§ 14.26 & 14.26.02).
  - The person who signed the T.D.:
    - is not an attorney “of record” (see §§ 14.29 and 14.29.01).
    - has failed to state his/her capacity to sign for the business entity (see § 14.28).
    - is not recognized as an officer of the assignee (see §§ 14.29 & possible 14.29.02).
  - No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame number specified as to where such evidence is recorded in the Office (see 37 CFR 3.73(b) and 1140 O.G. 72). NOTE: This documentary evidence or the specifying of the reel and frame number may be found in the T.D. or in a separate paper of record in the application (see § 14.30).
  - The T.D. is not signed (see §§ 14.26 & 14.26.03).
  - The serial number of the application (or the number of the patent) which forms the basis for the double patenting rejection is missing or incorrect (see § 14.32).
  - The serial number of this application (or the number of the patent in reexam or reissue cases being disclaimed is missing or incorrect (see §§ 14.26, 14.27.02 or 14.26.05).
  - The period disclaimed is incorrect or not specified (see §§ 14.26, 14.27.02 or 14.26.03).
  - Other:
  - Suggestion to request refund (see § 14.36). NOTE: If already authorized, credit refund to deposit account and **do not** check this item.

I have appropriately notified applicant(s) of the status of the Terminal Disclaimer filed in this case.

Ex. Initials: \_\_\_\_\_ Date: \_\_\_\_\_

Log Date:

Docket No. 211648US2S DIV

O I P E 4428  
SEP 1 A 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Hideo ~~TAIBO~~, et al.

SERIAL NO: 09/934,827

GAU: 2616

FILED: August 23, 2001

EXAMINER: Robert Chevalier

FOR: INFORMATION RECORDING MEDIUM, INFORMATION RECORDING METHOD AND APPARATUS,  
AND INFORMATION PLAYBACK METHOD AND APPARATUS

TERMINAL DISCLAIMER

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

Now comes the undersigned, Attorney of Record in the present application, who avers as follows:

Kabushiki Kaisha Toshiba is the owner of the entire right, title and interest in and to the invention claimed and disclosed in the above-captioned patent application by virtue of assignment, said Assignment having been recorded in the U.S. Patent and Trademark Office at reel no. 010155, frame(s) 0351.

Kabushiki Kaisha Toshiba hereby disclaims the terminal part of any patent granted on the above-captioned application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as presently shortened by any terminal disclaimer of any patent issuing from application Serial No. 10/172,929, and hereby agrees that any patent so granted on said above-captioned application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to any patent issuing from application Serial No. 10/172,929, this agreement to run with any patent granted on the above-captioned application and to be binding upon the grantee, its successors or assigns.

Kabushiki Kaisha Toshiba does not disclaim any terminal part of any patent granted on the above-captioned application that would extend to the full statutory term as defined in 35 U.S.C. 154 and 173 as presently shortened by any terminal disclaimer of any patent issuing from application Serial No. 10/172,929 in the event that any said issued patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321(a), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to the expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

James J. Kubaski  
Registration No. 34,648

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01 FC:1814

130.00 OP

Date Signed

9/14/05

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